

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D. C.

November 18, 1954

TOP SECRET

Honorable Allen W. Dulles
Chairman, United States Communications
Intelligence Board
Central Intelligence Agency
Washington 25, D. C.

Dear Mr. Dulles:

I have your letter of November 12, 1954, relating to steps which have been taken by this Department in connection with the case of the United States versus Joseph S. Petersen, Jr.

This Department has from the time Petersen's defection was first made known to it been aware through its participation in the deliberations of your Board and of the Special Committee of the harm that could result to the United States and its efforts in the field of communications intelligence by a public disclosure of our successes in that field. It is my understanding that this was fully realized by all participants in the meetings of the Board and the Special Committee when prosecution of Petersen was authorized.

You have expressed particular concern with the public disclosure of the notes which Petersen made reflecting United States success [redacted] which notes were made available by Petersen to representatives [redacted] and form the basis of the charge against Petersen in the indictment for violation of Section 793, Title 18, United States Code. It is the understanding of the members of this Department who attended meetings of the Special Committee and of the Board that the Department of State representatives were concerned about the disclosure at the time of Petersen's arrest of United States efforts against [redacted] either in the complaint or in the indictment. It was the opinion of this Department initially that this fact would necessarily be disclosed in the indictment. Subsequently, it was decided, however, that a legally sufficient indictment could be drawn without disclosing United States success [redacted] [redacted] as reflected in Petersen's notes. It was stated by representatives of this Department at that time, however, that undoubtedly the prosecution would be faced with a motion for a bill of particulars and

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would necessarily have to disclose the basis upon which the charge that Petersen violated Section 793 of Title 18, United States Code, was founded, namely the notes disclosing the success against the [redacted] At that time representatives of the Department of State expressed the opinion that disclosure by way of a bill of particulars would be much less harmful in our relations with other governments, since the disclosure would result from the efforts of the defense rather than as a result of disclosure by the United States without court order. Proceeding on that basis, no mention of the notes was included in the indictment. Inevitably, as was expected, the Government was immediately faced with a motion for a bill of particulars and the required disclosure was made.

You may recall that at a special meeting of the Board on the afternoon of October 13, 1954, the State Department representative indicated that he had not understood that the Petersen notes, above referred to, had been cleared for use in prosecution and that everyone present at the Board meeting expressed surprise at this statement and that the representative of this Department, Assistant Attorney General William F. Tompkins, had stated that the Government's case against Petersen hinged in a large part upon the use of these notes and that all present at the meeting concurred that the notes had already been made available for prosecution. This fact was confirmed at a meeting of the Special Committee on October 27, 1954, at which time it was again agreed that Petersen's October 5 statement to the Federal Bureau of Investigation in connection with these notes was also available for prosecution.

I am sorry that you were not furnished with a copy of the bill of particulars prior to the filing of the document. Representatives of the Internal Security Division who are concerned with the Petersen case are not aware of any request made to them by the Executive Secretary of the Board or by any other members of the Board for copies of the bill of particulars. It had been the assumption of this Department that all members of the Board were aware of the fact that although the Petersen notes were not disclosed in the indictment, they would necessarily have to be disclosed in a bill of particulars. You will also recall that the drafting of the bill of particulars was deferred until the last possible moment in order that the Board might consider this Department's request for the release of additional documents.

I may add that this request for the release of additional documents was predicated upon the indifferent attitude of the Grand Jury to most of the documents already released for prosecution. You

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will also have noted the publicly reported reaction to two of the four documents released and the statements attributed to officials [redacted] regarding the significance of these documents. Representatives of the Internal Security Division will avail themselves of the offer of the National Security Agency, now approved by the Board, that they be allowed to examine all the documents and predicate a request for the release of additional documents upon the results of such an examination.

Mr. Tompkins will, of course, continue to maintain direct liaison with you in this matter, as well as with [redacted] as you have requested.

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Sincerely,

/s/

William P. Rogers
Acting Attorney General